

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

John Raines and John Nesse, as
Trustees of the Carpenters & Joiners
Welfare Fund and Twin City
Carpenters and Joiners Pension Plan,
the Carpenters and Joiners Defined
Contribution Plan, and each of their
successors,

Civ. No. 21-797 (PAM/DTS)

Plaintiffs,

v.

MEMORANDUM AND ORDER

Phoenix Corp. and Brian R. Connell,

Defendants.

This matter is before the Court on Plaintiff's Motion for Entry of Default Judgment. (Docket No. 13.) Nathan T. Boone, Esq. appeared for Plaintiffs. Defendants did not appear.

FINDINGS OF FACT

1. The Complaint and Summons were filed with the Court on March 25, 2021. (Docket Nos. 1, 3).
2. Plaintiffs served the Complaint and Summons on Defendant Brian R. Connell on March 26, 2021, and Phoenix Corp on April 26, 2021. (Docket Nos. 4, 6.)
3. The time allowed by law and specified in the Summons for Defendants to answer the Complaint has lapsed. Defendants have failed to file an Answer with the Clerk of Court or serve an appropriate answer upon Plaintiffs' counsel.

4. The Application for Entry of Default (Docket No. 7) and Declaration of Nathan T. Boone in support of the Application for Entry of Default (Docket No. 8) were filed on May 18, 2021.

5. The Clerk's Entry of Default was entered on May 19, 2021. (Docket No. 9.)

6. Plaintiffs are trustees and fiduciaries of the of the Carpenters & Joiners Welfare Fund, the Carpenters and Joiners Pension Plan, the Carpenters and Joiners Defined Contribution Plan, and the Carpenters and Joiners Apprenticeship and Journeymen Training Trust Fund (hereinafter "Funds"). The Funds are multi-employer jointly-trusted fringe benefit plans created and maintained pursuant to Sections 302(c)(5) and 302(c)(6) of the Labor Management Relations Act of 1947 ("LMRA"), as amended 29 U.S.C. §§ 186(c)(5), 186(c)(6). The Funds are administered in accordance with the provisions of the Employee Retirement Income Security Act of 1974, as amended 29 U.S.C. § 1001, et seq. ("ERISA"). Plaintiffs John Raines and John Nesse, and any subsequently appointed successors, are Trustees and fiduciaries under ERISA § 3(21), 29 U.S.C. § 1002(21).

7. Defendants are bound to the terms of a Collective Bargaining Agreement with the North Central States Regional Council of Carpenters ("CBA"). The CBA requires, among other things, signatory employers to make fringe benefit contributions to the Fund in accordance with its terms. These contributions must be made on behalf of all employees covered by the CBA, in amounts set forth and agreed upon therein, for the purpose of funding employee benefits. Employers, such as Defendants, are required to complete a report form with the information as required by the Trustees, identifying each

of its employees and each hour worked by those employees during the months performing covered service. The reports are required to be submitted with the payment for the amounts due not later than the 15th day of the following month. All contributions must be made, and all reports must be submitted to Wilson-McShane Corporation, 3001 Metro Drive, Suite 500, Bloomington, MN 55425, as the administrative agent designated by the Trustees.

8. The CBA provides that when an employer fails to timely submit their reports and contributions, the employer is liable for unpaid contributions, an additional 10% of all contributions as liquidated damages, and attorney fees and costs.

9. Defendants have breached their obligations under the CBA by failing to timely submit the fringe fund reports and contributions for the months of September 2020 through June 2021.

10. Following the filing of this lawsuit, Defendants produced the requested reports and for the months of September 2020 through June 2021. Plaintiffs discovered hours worked by employees governed by the CBA for which fringe benefits contribution payments were not remitted by Defendants.

11. The total amount of delinquent contributions due and owing pursuant to the reports Defendants produced is \$3,831.04.

12. Defendants are also liable for liquidated damages under the terms of the collective bargaining agreement in the amount of \$383.10, or 10% of the delinquent contributions for the months of September 2020 through June 2021.

13. In total, Defendants are liable for \$4,214.14 in delinquent contributions and liquidated damages.

14. The CBA provides that Plaintiffs are entitled to their reasonable attorney's fees and costs of this action.

15. Plaintiffs have incurred \$1,430.92 in attorney's fees and costs in pursuit of this matter.

16. Defendants have also failed to produce reports for the period of June 2021 to the present, and any contributions due and owing pursuant to those reports, to Plaintiffs.

CONCLUSIONS OF LAW

1. Defendants are in default, and Plaintiffs are entitled to entry of a default judgment.

2. Defendants have breached their obligations under the CBA by failing to make contributions to the Funds in the amount of \$4,214.14 for delinquent fringe benefit contributions and liquidated damages due and owing for the period of September 2020 through May 2021.

3. Defendants are liable to Plaintiffs in the amount of \$4,214.14 for unpaid fringe fund contributions and liquidated damages.

4. Plaintiffs' incurred attorney's fees and costs of \$1,430.92 are reasonable under ERISA § 502(g); 29 U.S.C. § 1132(g).

CONCLUSION

Accordingly, **IT IS HEREBY ORDERED that:**

1. Plaintiffs' Motion for Entry of Default Judgment (Docket No. 13) is **GRANTED**;
2. Defendants are liable to Plaintiffs in the amount of \$4,214.14 for delinquent fringe benefit contributions and liquidated damages due and owing for the period of September 2020 through May 2021;
3. Plaintiffs are awarded \$1,430.92 for reasonable attorney's fees and costs pursuant to ERISA Section 515 and 502, 29 U.S.C. §§ 1145, 1132(g);
4. Judgment shall be entered in favor of Plaintiffs against Defendants in the amount of \$5,645.06; and
5. Defendants shall produce reports for the period of June 2021 to the present, and any contributions due and owing pursuant to those reports, to Plaintiffs, within ten days of the date this Order is served on Defendants.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: Tuesday, September 14, 2021

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge